

THE SPENCER LAW FIRM

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

JEFFREY WILENS, on behalf of
himself and all persons similarly
situated,

Plaintiffs,

vs.

HEART SAVERS, LLC and DOES 1
through 100 inclusive,

Defendants

) **Case No. SACV 15-1139 JVS (ASx)**

)

) Hon. James V. Selna

)

) **CLASS ACTION**

)

)

) **APPLICATION FOR DISMISSAL**

) **OF INDIVIDUAL CLAIMS OF**

) **PLAINTIFF JEFFREY WILENS**

) **WITH PREJUDICE AND CLASS**

) **CLAIMS WITHOUT PREJUDICE**

WHEREAS the Defendant presented evidence that it lacks sufficient assets to pay a settlement of greater than \$10,000 which is inadequate to satisfy the class claims.

WHEREAS the Parties entered into an individual settlement agreement wherein Defendant will pay Plaintiff \$10,000 to settle his individual claims and the individual claims of the Plaintiff will be dismissed with prejudice and the Class Claims will be dismissed without prejudice;

1 WHEREAS Plaintiff filed a Motion for Approval of Individual Settlement.
2 (Docket No. 32);

3 WHEREAS the Court issued a tentative ruling denying Plaintiff's Motion for
4 Approval of Individual Settlement because Court approval of the individual
5 settlement is not necessary and directed Notice of the settlement be provided to the
6 class members as proposed in Docket No. 32 at 6-7. (See Tentative Ruling on Motion
7 for Approval of Individual Settlement);

8 WHEREAS the Parties submitted on the Court's tentative ruling.

9 WHEREAS the Court Denied Plaintiff's Motion and ruled in accordance with
10 the tentative ruling and set a further Status Conference for March 19, 2018 at 10:00
11 a.m. which would be vacated if a stipulation/application for dismissal of Plaintiff's
12 individual claims with prejudice and dismissal of the Class claims without prejudice
13 is submitted to the Court prior to the hearing date. (Docket No. 34)

14 WHEREAS the Notice to the Class set forth in Docket No. 32 at 6-7 has been
15 completed and Defendant has paid the settlement consideration;

16 THEREFORE Plaintiff hereby respectfully requests the Court enter an
17 Order dismissing the claims of plaintiff Jeffrey Wilens with prejudice and dismissing
18 the claims of the class members without prejudice. A proposed Order is filed
19 concurrently herewith.

20
21 Dated: March 14, 2018

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22 By: /S/ Jeffrey Spencer
23 Jeffrey Spencer
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